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NO. 91-847

SUPREME COURT OF THE UNITED STATES
October Term, 1991DONALD EDGAR JOHNSON AND CLASS OF PRO SE
NONLAWYER ALLEGED CONFIDENCE GAME VICTIMS,PETITIONERS,

v.

RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR.,
THE ESTATE OF CARL A. JOHNSON, SR., THE LAW
FIRMS OF LANDMAN LATIMER CLINK & ROBB, CULVER
LAGUE & McNALLY, O'TOOLE STEVENS JOHNSON
KNOWLTON & ROLF, O'TOOLE JOHNSON POTTER ROLF
GRAFTON & EKLUND, P.C., THE STATE OF MICHIGAN,
And ROBERT J. DANHOF, Michigan Court Of Appeals
Chief Judge, Jointly And Severally,RESPONDENTS.Petition For Writ Of Certiorari To The
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUITPETITIONERS' SUPPLEMENT TO
PETITION FOR CERTIORARIDONALD EDGAR JOHNSON, In Pro Per
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NOW COME DONALD EDGAR JOHNSON AND CLASS
OF PRO SE NONLAWYER ALLEGED CONFIDENCE GAME
VICTIMS, Petitioners, who supplement their
11/22/91 Petition For Certiorari pursuant to
S.C.T.R. 15:

1. The caption of this case is not "Donald Edgar Johnson v. Richard Gordon Johnson, et al" because it was corrected on 12/26/91 to read "Donald Edgar Johnson, etc. v. Richard Gordon Johnson, et al" in response to Petitioners' emergency motion to this Court.

a. Both the district court and the U.S. court of appeals captions, pp 1a, 3a, 5a, 10a, erred by failing to show that the dismissed 1990 4th Amended Complaint, p 11a, was a district court-approved and filed class action.

"6/4/90 -- PROCEEDING before Magistrate Hugh W. Brenneman Jr.; re motion to proceed on pltfs' proposed 4th amended complaint (to amend complaint) [41-1] - granted (this complaint supersedes all others); this complaint allows the addition of a deft - Judge Danhof; the proposed complaint is deemed filed as this hearing (a "law firm corp" - O'Toole, has been added also); * * * 6/7/90 54 ORDER (1 pg) by Magistrate Hugh W. Brenneman Jr. granting motion

to proceed on pltfs' proposed 4th amended complaint (to amend complaint) [41-1] (cc: all counsel on 6/11/90) (bah) [Entry date 06/13/90] [Edit date 06/13/90]." District Court Docket Sheet p 8. (Joint Appendix p 08 in U.S. court of appeals.)

"All parties to the proceeding in the court whose judgment is sought to be reviewed shall be deemed parties in this Court." S.Ct.R. 12.4.

"Every document must bear on the cover, in the following order, from the top of the page: * * * (4) the caption of the case as appropriate in this Court". S.Ct.R. 33.2(4). (Emphasis added).

2. Although the O'Toole law firm partnership and the O'Toole law firm corporation were parties to the proceedings in the U.S. court of appeals whose judgment is sought to be reviewed, there has yet to filed an Appearance for either party in violation of S.Ct.R. 12.4 above.

a. Said partnership, O'TOOLE STEVENS JOHNSON KNOWLTON & ROLF, and said corporation, O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND, P.C., law firms are not represented by the Harold M. Street Appearance which seeks to

represent O'Toole, Johnson, Potter, Rolf & Eklund which was a non-party to the proceedings in the U.S. court of appeals:

"The Clerk will enter my appearance as Counsel of Record for Carl A. Johnson, Sr. Estate and O'Toole, Johnson, Potter, Rolf & Eklund * * * /s/ Harold M. Street". H.M. Street
12/6/91 Appearance.

b. In U.S. court of appeals proceedings, said non-party's Linda S. Kaare represented defendant O'Toole partnership plus defendant O'Toole corporation by representing defendant O'Toole corporation and claiming that the O'Toole corporation was formerly known as the O'Toole partnership.

". . . Defendants-Appellees request this Court grant the Motion to File Supplemental Appendix and enter an order to that effect. Respectfully submitted, O'TOOLE, JOHNSON, POTTER, ROLF & EKLUND - Attorneys for Defendants- Appellees O'Toole, Johnson, Potter, Rolf, Grafton & Eklund, P.C. (formerly known as O'Toole, Stevens, Johnson, Knowlton & Rolf), and the Carl A. Johnson, Sr. Estate - Dated: June 4, 1991 By /s/ Linda S. Kaare (P38866)". Motion Filed In U.S. Court Of Appeals By Defendants O'Toole Corporation, O'Toole Partnership, And Estate.

1) [But it is a fact that defendant O'Toole partnership and defendant O'Toole corporation were committing continuing frauds and conspiring while both were simultaneously 1986-1988 representing the defendant Johnson estate -- the partnership in circuit court #73-C7432 (Contract) + #86 21207 (Relief From '74 Judgment) and the corporation in probate court #86-59607 (Claim based on '74 Judgment). See Petition p 23a. That \$300,000-\$400,000 estate was distributed and its real estate sold prematurely, 1988-1991, before the outcome of Petitioner Johnson's 1986 \$500,000 (not \$1,500,000) claim against it that is contingent to the outcome of this Petition For Certiorari.]

c. The defendant Landman law firm partnership now includes part of said defendant O'TOOLE JOHNSON POTTER ROLF GRAFTON & EKLUND, P.C. law firm corporation.

1) On 12/12/91, defendant LANDMAN LATIMER CLINK & ROBB filed its appearance in this Court with letterhead including the name Edward

A. Grafton as member of the firm.

2) But said attorney Grafton was a member of defendant O'TOOL JOHNSON POTTER ROLF GRAFTON & EDKLUND, P.C. during 12/90-9/91 U.S. court of appeals proceedings because his office and telephone were listed at the O'Toole location in the 6/91 local telephone directory:

"Grafton Edward A atty
Ofc 175 W Apple Ave Muskegon 722-1621".
6/91 TDI telephone directory.

3. Contrary to the Kohl and Street Appearances now filed in this Court, Petitioners contend that the 1964-1965 "2-that-became-4" defendant law firms that were parties to the U.S. court of appeals proceedings whose judgment is sought to be reviewed herein are now best represented in this Court as follows:

#1-LANDMAN LATIMER CLINK & ROBB
by Steven C. Kohl;

#2-CULVER LAGUE & McNALLY
by Robert M. McNeily;

#3-O'TOOLE STEVENS JOHNSON KNOWLTON
& ROLF by Harold M. Street; and

#4-O'TOOLE JOHNSON POTTER ROLF GRAFTON
& EKLUND, P.C. by Steven C.
Kohl for Grafton plus Harold
M. Street for O'Toole, Johnson,
Potter, Rolf, and Eklund.

4. Here are additional relevant cases:

"A full and fair hearing means that 'where there are facts in dispute, full and fair consideration requires consideration by the fact-finding court, and at least the availability of meaningful appellate review by a higher state court.' O'Berry v. Wainwright, 546 F2d 1204,1213 (5th Cir) (emphasis on original), cert denied, 433 US 911, 97 S Ct 2981, 53 LEd2d 1096 (1977)."
Davis v. Blackburn, (1986 5th Cir) 803 F2d 807,808. (Emphasis added).

"As a matter of federal law, res judicata principles do not apply 'where the party against whom an earlier decision is asserted did not have a full and fair opportunity to litigate the claim or issue decided by the first court.' Allen v. McCurry, 449 U.S. at 95,101, 101 S Ct at 415,418; accord Haring v. Prosise, 103 S. Ct. at 2373."
Fellowship of Christ Church v. Thorburn (1985 CA6 Mich) 758 F2d 1140.

"A Federal court 'may entertain a collateral attack on a state court judgment which is alleged to have been procured through fraud, deception, accident, or mistake'." In re Sun Valley Foods Co. (1986 CA6 Mich) 801 F2d 186.

"The right to petition the government for a redress of grievances includes the right of access to the courts; that right is also subject to due process protection in that the opportunity must be at a meaningful time in a meaningful manner. U.S.C.A. Const. Amends. 1,5." Matter of N.C. Trading (1978 Cust & Pat App) 586 F2d 221.

"When state officers in exercise or attempted exercise of their official authority, deny to any citizen equal protection of laws or deprive him of his property without due process of law, state itself does so and such official action comes within constitutional prohibitions." Douglas Park Jockey Club v. Grainger (1906 CC Ky) 146 F 414, revd on other grounds (CA6 Ky) 148 F 513.

"Pro se complaints are held to less stringent standards than formal pleadings drafted by lawyers, and allegations in pro se complaints must be taken as true and construed in favor of plaintiff." Malone v. Colyer (1983 CA6 Tenn) 1710 F2d 258.

"Before the collateral estoppel doctrine may be applied to preclude further judicial review of an issue, four basic criteria must be met:

- (1) the precise issue raised in the present case must have been raised and actually litigated in the prior proceeding;
- (2) determination of the issue must have been necessary to the outcome of the prior proceeding;
- (3) the prior proceeding must have resulted in a final judgment on the merits; and
- (4) the party against whom estoppel is sought must have had as full and fair opportunity to litigate the issue in the prior proceeding." Detroit Police Officers Ass'n v. Young (1987 CA6 Mich) 824 F2d 512, 515.

"[A]ll inmates would have common interest in preventing unconstitutional mail censorship, and civil rights action brought by plaintiff would be maintainable as class action as to question of mail censorship imposed by defendants. Preston v. Cowan (1973 DC Ky) 369 F Supp 14, affd in part and vacated in part on other grounds (CA6 Ky) 506 F2d 288.

5. Here is correction of Petition, p 5,
line 19:

"of shall be of the value of more than \$100, such person shall be guilty of a felony, punishable".

Respectfully submitted,

Dated: January 4, 1992

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